



***Board of Zoning Appeals Public Hearing
December 14, 2010 —7:00 P.M***

CASE NUMBER:	V-10-018
PROPERTY LOCATION:	4000 Block of Falls Ridge Drive, Johns Creek, GA 30022 1st District, 1st Section Land Lot 100
CURRENT ZONING:	R-4A Conditional (Single Family Dwelling District)
PARCEL SIZE:	0.53 Acres
PROPERTY OWNER:	Romulo & Edith Lakip

REQUEST

The applicant requests a variance to encroach approximately 21 feet into the 50-foot undisturbed buffer and additional 25-foot impervious surface setback required by the City of Johns Creek. The proposed encroachment is required to construct a 1,107 square-foot loop driveway addition in the front yard of the existing property, with 420 square feet of the driveway falling within the impervious surface setback of the stream buffer. The subject property is located in The Falls of Autry Mill subdivision and a stream is located along the east property line. The subject property was originally platted with a stream buffer requirement of a 35-foot tributary buffer from the point of wrested vegetation. Fulton County, and subsequently the City of Johns Creek, has adopted the larger stream buffer standards of a 50-foot undisturbed buffer and an additional 25-foot impervious surface setback. There currently exists a two-story single family residential structure on the property with the eastern portion of the lot being densely wooded.

ADJACENT ZONING AND LAND USES

The subject property is zoned R-4A Conditional (Single Family Dwelling District) and is located within The Falls of Autry Mill subdivision. The subject property is bounded by R-4A Conditional zoned property on all sides. North of the subject property is the Oxford Mill subdivision zoned R-4A Conditional. To the south is The Country Club of the South subdivision, zoned CUP Conditional (Community Unit Plan District). To the west of the subject property is Autry Township subdivision and shopping center, zoned CUP Conditional and C-1Conditional (Community Business District) respectively. East of the subject property is the Fulton County water treatment center, zoned AG-1 (Agricultural District).

APPLICABLE CODE REQUIREMENTS

City Code; Chapter 109: Natural Resources & Environmental Protection; Article V: Stream Buffer Protection: Section 109-118: Land Development Requirements.

- (i) An undisturbed natural vegetative buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the point of wrested vegetation.

- (ii) An additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.

VARIANCE REQUIREMENTS

Staff is including the specific conditions that must be considered for a variance to be granted in an effort to assist the Board of Zoning Appeals in considering the application and its merits. These considerations include:

- (i) When a property's shape, topography or other physical conditions existing at the time of the adoption of this ordinance prevents land development unless a buffer variance is granted.
- (ii) Unusual circumstances when strict adherence to the minimal buffer requirements in the ordinance would create an extreme hardship.

ADDITIONAL STREAM BUFFER CONSIDERATIONS

Stream buffers are the areas of land immediately adjacent to the banks of state waters which facilitate the protection of water quality and aquatic habitat. Buffers also preserve green space, improve aesthetics, reduce stormwater runoff velocities, help control flooding, and keep stream water cool by providing shade. These buffers must remain undisturbed in their natural state during and after construction, however variances can be obtained that allow for encroachment under certain conditions. Stream buffers are regulated on both the state and local levels and each agency has different rules regarding buffer widths. The Georgia Environmental Protection Division (EPD) requires 25 foot buffers on both sides of a stream, measured from the point of wrested vegetation which is usually located at the tops of the banks. The City of Johns Creek requires an undisturbed buffer of 50 feet with an additional 25 feet where all impervious surfaces are prohibited. Variance applications may be granted on a case by case basis provided the applicant submit information showing the location of the stream, the extent of encroachment, and documentation of the unusual hardship should the buffer be maintained. These variance applications must also provide mitigation measures to offset the impacts of land development or disturbance on the proposed property. Although allowed by ordinance, granting of stream buffer variances should be kept to a practicable minimum in order to preserve water quality and minimize flood risks from future, upstream development. The location and extent of buffer encroachment, long term water quality impacts, and potential, less intrusive alternate designs are all factors to be considered in determining whether to issue a variance. Stream Buffer Variances granted by the City of Johns Creek are subject to annual audits by the Metropolitan North Georgia Water Planning District and the EPD. The City must ensure that consistency and thorough examination to long term impacts are considered in order to justify granting variances.

RECOMMENDATION

The subject property was originally platted with a 35-foot tributary stream buffer along the stream located on the east property line. The applicant has requested a variance to construct a 1,107 square-foot loop driveway in the front yard. A total of 420 square feet of the proposed loop driveway will encroach 21 linear feet into the 25 foot impervious setback portion of the stream buffer.

The submitted site plan illustrates that under the previous requirement, the proposed loop driveway along the front yard could have been constructed on the property without encroaching into and maintaining a sufficient setback from the 35-foot tributary buffer. With the city's adoption of the larger stream buffer standards of 50-foot undisturbed buffer and additional 25-foot impervious surface setback, the planned driveway addition

encroaches into the stream buffer. Although the requested addition is located within the stream buffer, it would be constructed outside the originally platted 35-foot tributary buffer, and would meet the requirements of the zoning ordinance for a driveway addition. Additionally, the requested minimal encroachment of 21 feet would not require removal of mature vegetation, except for 2 smaller trees located in the front yard that will be replaced with a landscape plan along the proposed driveway. In addition to the landscaping for the driveway, the applicant has proposed a mitigation plan that would exceed the minimum requirements of the city's stream buffer revegetation standards.

In light of the subject property having had the ability to construct a loop driveway based on the previous stream buffer requirement, the proposed addition not having an adverse affect on existing vegetation, and implementation of a mitigation plan that exceeds the revegetation requirement for a 420 square foot encroachment into the stream buffer; the Department of Community and Development recommends **APPROVAL with conditions** of this request.

Based upon the findings and conclusions herein, Staff recommends **APPROVAL with conditions** of this request, subject to the following conditions of approval or as may be amended by the Board of Zoning Appeals:

- 1) The proposed loop driveway addition shall encroach no more than 21 feet (420 square feet) in depth into the 50-foot undisturbed buffer and additional 25-foot impervious surface setback, as shown on the site plan dated November 1, 2010.
- 2) Obtain required building permits from the City of Johns Creek Community Development Department prior to commencement of the loop driveway addition.
- 3) As part of the building permit, the applicant is to submit a copy of the mitigation plan that was provided with the variance application dated November 23, 2010. The mitigation plan must clearly depict the location, number, and plant material to be installed on the property.
- 4) The applicant is required, prior to issuance of a certificate of completion, to replant vegetation on the subject property, in order to offset any adverse impact associated with additional impervious surface closer to the stream. Revegetation of the property shall be consistent with the mitigation plan submitted by the applicant to the Department of Community and Development on November 23, 2010.
- 5) Obtain required Right-of-Way Encroachment Permit from the Public Works Department prior to commencement of the loop driveway addition.

Aerial and Vicinity Map

